

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ALFONSO MANUEL BLAKE,

Case No. 3:19-cv-00321-MMD-WGC

v.

Plaintiff,

ORDER

JAMES DZURENDA, *et al.*,

Defendants.

11 Pro se Plaintiff Alfonso Manuel Blake brings this action under 42 U.S.C. § 1983.
12 Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of
13 United States Magistrate Judge William G. Cobb (ECF No. 46), recommending the Court
14 substitute in the new warden Charles Daniels as a Defendant in place of James
15 Dzurenda, and deny Plaintiff’s motion for a preliminary injunction (ECF No. 21 (“Injunction
16 Motion”)). Plaintiff had until June 15, 2021, to file an objection. To date, no objection to
17 the R&R has been filed. For this reason, and as explained below, the Court adopts the
18 R&R, and will both substitute in Daniels¹ and deny Plaintiff’s Injunction Motion because
19 the evidence shows Plaintiff orders non-vegan food, and the authorization of a new vegan
20 diet likely renders his requested injunctive relief moot in any event.

21 The Court “may accept, reject, or modify, in whole or in part, the findings or
22 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
23 fails to object to a magistrate judge’s recommendation, the Court is not required to
24 conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas*
25 *v. Arn*, 474 U.S. 140, 149 (1985); see also *United States v. Reyna-Tapia*, 328 F.3d 1114,
26 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and

28 ¹The Court agrees with Judge Cobb that substitution is proper here. (ECF No. 46
at 2-3.)

1 recommendations is required if, but *only* if, one or both parties file objections to the
2 findings and recommendations.") (emphasis in original); Fed. R. Civ. P. 72, Advisory
3 Committee Notes (1983) (providing that the Court "need only satisfy itself that there is no
4 clear error on the face of the record in order to accept the recommendation.").

5 Because there is no objection, the Court need not conduct *de novo* review, and is
6 satisfied Judge Cobb did not clearly err. Here, Judge Cobb recommends denying
7 Plaintiff's Injunction Motion for two primary reasons. (ECF No. 46 at 4-8.) Judge Cobb
8 first recommends the Court deny the Injunction Motion because Plaintiff says that his
9 Hindu religion requires that he be placed on a true vegan diet, but he requests to be
10 placed on the Common Fare diet, which is not vegan, and Defendants presented
11 evidence that he often orders non-vegan items from the canteen in any event. (*Id.* at 6-
12 7.) Second, Judge Cobb notes that the prison has since instituted a vegan diet that likely
13 renders his request to be placed on the Common Fare diet moot since the new vegan
14 diet better satisfies his dietary requirements. The Court agrees with Judge Cobb. Having
15 reviewed the R&R and the record in this case, the Court will adopt the R&R in full.

16 It is therefore ordered that Judge Cobb's Report and Recommendation (ECF No.
17 46) is accepted and adopted in full.

18 It is further ordered that Defendant Charles Daniels is substituted in place of former
19 Director, Defendant James Dzurenda. The Clerk of Court is directed to update the docket
20 accordingly.

21 It is further ordered that Plaintiff's motion for a preliminary injunction (ECF No. 21)
22 is denied.

23 DATED THIS 23rd Day of June 2021.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE